

UNITED STATES OF AMERICA,

vs.

AQUILIA MARCIVICCI BARNETTE,

Defendant.

THIS MATTER is before the Court upon remand from the Fourth Circuit Court of Appeals for further consideration in light of *Miller-El v. Dretke*, 545 U.S. 231 (2005).

Pursuant to the unanimous jury verdict, returned on January 27, 1998, finding Defendant guilty on all eleven counts of the Indictment, the unanimous jury verdict, returned on August 13, 2002, recommending the imposition of the death penalty on Counts Seven, Eight and Eleven of the Indictment, 18 U.S.C. §§ 3591-3595, and the Special Findings of the jury, this Court sentenced Defendant to death on each of Counts Seven, Eight and Eleven of the Indictment.¹ Judgment was entered on August 20, 2002. (Doc. 600.)

Count Eleven: First Degree Murder by Use of a Firearm in violation of 18 U.S.C. §§ 924(c)(1) & (i)(2)(1), offense concluded June 22, 1996.

The Fourth Circuit affirmed the sentences. See U.S. v. Barnette, 390 F.3d 775, 779-82, (4th Cir. 2004), vacated, Barnette v. United States, 546 U.S. 803 (2005). Subsequently, the United States Supreme Court granted Barnette's Petition for Writ of Certiorari, vacated the judgment, and remanded Barnette's case to the Fourth Circuit "for further consideration in light of Miller-El" Barnette v. United States, 546 U.S. 803 (2005). The Fourth Circuit, in turn, remanded the case to the district court "for further consideration in light of Miller-El" United States v. Barnette, No. 02-20 (4th Cir. filed Aug. 28, 2007). Upon remand, this Court reconsidered Barnette's Batson challenges² in light of Miller-El and affirmed its previous conclusion that Barnette had failed to show that the prosecution engaged in purposeful discrimination when it exercised peremptory strikes against five African-American veniremen during his 2002 jury selection. (Doc. 660.)

CONCLUSION

IT IS, THEREFORE, ORDERED that the Clerk of Court prepare an amended judgment in the criminal action reinstating the sentences imposed in this Court's initial judgment filed August 20, 2002.

Signed: June 7, 2010



Richard L. Voorhees
United States District Judge



²In Batson v. Kentucky, the Supreme Court established a three-pronged test for determining if the prosecution purposefully exercised its peremptory strikes in a racially discriminatory manner. 476 U.S. 79, 96-98 (1986).